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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,508	07/25/2003	Gianni Fasan	5154P001	3262

8791 7590 05/23/2006

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EXAMINER
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DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/627,508

Applicant(s)

FASAN, GIANNI

Examiner

Robyn Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

Applicant is noted that the finality of previous office action mailed 3/08/2006 has been withdrawn herewith and claims 1-18 are rejected under the same ground rejections as set forth in the office action mailed 3/80/06.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4, 8-9, 11 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marquez (5865188) in view of Vallis (3949765).

With regard to claims 1-2, 4, 8-9 and 11, Marquez discloses a brush for straightening the hair (figs. 1 and 6) comprising a first brush head (10) having a first plurality of bristles (16) extending therefrom, a second brush head (12) pivotally coupled to the first brush head by a resilient member (128, fig. 6), the second brush head having a second plurality of bristle groups (24) extending therefrom. Marquez does not disclose the first plurality of bristles forming into a plurality first bristles groups and a guide pin disposed within each of the first and second plurality of bristle groups, each of the guide pin extending farther from the first and second brush heads than each of the first and

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second plurality of bristle groups and also the guide pin being made of synthetic material. Vallis discloses a brush for drying a lock of hair (figs. 1-5) comprising a brush head (1) having a plurality of bristle groups (col. 2, lines 29-30) and a guide pin (8 or 19 fig. 5) being disposed within the plurality of bristle groups and extending farther from the bristle brush head than the bristle groups (figs. 1-3, 5), the guide pin (8) serves as parting the hair as the brush moves. The guide pin being made of synthetic material (col. 2, lines 60-61). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the guide pin as taught by Vallis into the hair brush of Marquez for the purpose of parting the hair. It would also have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the first plurality of bristles forming into a plurality first bristles groups as the second bristle groups, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. It is noted that Vallis teaches to use the guide pins (8) to part the hair as the brush moves and the guide pins (8) having structures that inherently capable to guide surrounding bristles 7, fig. 2, this teaching solves the same problem as the invention which acts as a guiding tool. In regard to claims 15-17, Marquez in view of Vallis are capable to perform the claimed method steps.

Claims 3, 7 and 10, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marquez in view of Vallis as applied to claims 1, 8 and 15 above, and further in view of Bond (U.S. Pat. # 4,610,925)

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With regard to claims 2, 7 and 10, 14, 18, Marquez in view of Vallis disclose a hair brush comprising all the claimed limitations in claims 1, 8 as discussed above except for the guide pin being coated with ions and the material of the bristles being boar bristles. Bond discloses hairbrush bristles being made of nylon or polyester core and also having a coating of an anti-static material being carbon (abstract). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the ionized coating onto the bristles as taught by Bond into the hairbrush of Marquez in view of Vallis for the purpose of removing static to the hair of the user. Bond show the bristles having a polyester core which is suitable flexible, therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the specific boar bristle material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 5-6 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marquez in view of Vallis as applied to claims 1, 8 above, and further in view of Gress et al (4217915).

With regard to claims 5-6 and 12-13, Marquez in view of Vallis disclose a hair brush comprising all the claimed limitations in claims 1, 8 as discussed above except for at least one of the brush heads comprising a rounded portion opposite the bristles and having a ceramic material disposed thereon. Gress et al discloses a hair brush (fig. 2) comprising a brush head plurality of bristles (1), a rounded portion (cover 8) being

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opposite the bristles and a ceramic material (15) being disposed on the brush head for distributing heat to the rounded portion (cover 8). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the ceramic material and rounded portion as taught by Gress et al into the hairbrush of Marquez in view of Vallis for the purpose of distributing heat to the hair device.

Applicant has argued that the guide pin of Vallis does not serve to guide the surrounding bristles, however, Applicant has failed to disclose the detailed structures of the guide pins being formed among the bristles, therefore, in view of the structure of the guide pins of Vallis, the guide pins of Vallis is inherently capable to perform as a guide pin to guide the surrounding bristles.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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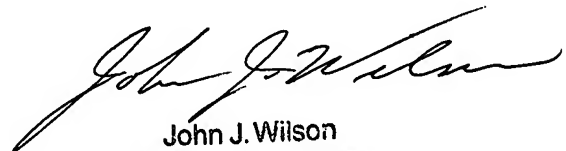
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robyn Doan  
Examiner  
Art Unit 3732



John J. Wilson  
Primary Examiner